

THE CRIMINAL PROSECUTION OF INSECTS

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In the November, 1926, issue of *Entomological News*, I wrote a little article entitled "Insects as Litigants." During the meantime, I came into the possession of a copy of "The Criminal Prosecution and Capital Punishment of Animals," by E. P. Evans, whose book is an expansion of two essays that appeared in "The Atlantic Monthly" for August and September, 1884. As insects are among the animals mentioned by Mr. Evans, and as entomologists, for the most part, are unfamiliar with this phase of historical entomology, it is believed that the present summary of Mr. Evans' account, insofar as it relates to insects, will be of interest. Mr. Evans' book was published in London in 1906 and has been out of print for many years.

Students of the history of jurisprudence have long been familiar with the early capital punishments imposed upon pigs, cows, horses and other domestic animals by secular courts, as a penalty for homicide, and with the judicial proceedings instituted by ecclesiastical courts against rats, mice and insects in order to prevent their ravages to crops, and to expel them from orchards and fields by exorcism and excommunication. Domestic animals could be arrested, tried, convicted and executed just like man, but as this was not possible in the case of insects, which were not subject to control by the civil authorities, or in fact by any human agency, the Church had to take them in hand and exercise its supernatural functions against them. This it did by resorting to "metaphysical aid." And so noxious insects were expelled or exterminated by sacerdotal conjuring and cursing. Nowadays it is customary to obtain large appropriations from Congress for this purpose. It was customary to bring some of the injurious insects to court and to put them to death while the malediction was being pronounced.

In explaining the reasons for the visitations of insect pests the Church sometimes said that they were sent by Satan, and at other times by God for the punishment of man's sins. In either case, relief was to be had only through the action of the Church.

The Council of Worms in 864 decreed that bees that had been responsible for stinging a man to death should be suffocated in their hive so that the honey would not be demoniacally tainted and unfit for food. The pastoral staff of St. Magnus was frequently carried in solemn processions, from 1685 to 1770, to such places as Lucerne, Zug and other places in Switzerland for the purpose of expelling and exterminating insects as well as rats and mice. And excommunications against insects could be purchased from Rome. At times the insects received advance warnings. Public processions were held in parishes and noxious insects were warned to stop their ravages under penalty of excommunication. Sometimes they were given a specified time, such as six days, in which to disappear.

In 1545, legal proceedings were started by the wine-growers of St. Julien against the weevil "*Rychites auratus*," which was injuring their vineyards, but instead of passing sentence upon the insects, the official issued a proclamation recommending public prayers. It was characteristic of such proclamations to carry a preamble like the following: "Inasmuch as God, the supreme author of all that exists, hath ordained that the earth should bring forth fruits and herbs (*animas vegetativas*), not solely for the sustenance of rational human beings, but likewise for the preservation and support of insects, which fly about on the surface of the soil, therefore it would be unbecoming to proceed with rashness and precipitance against the animals now actually accused and indicated; on the contrary, it would be more fitting for us to have recourse to the mercy of heaven and to implore pardon for our sins." This preamble was followed by instructions for conducting public prayers and in this particular case, the curate attested that the instructions were fully carried out and that the insects disappeared soon afterwards.

However thirty years later there was another outbreak of the species in question and the weevils were brought to trial. The documents recording the proceedings are preserved in the archives of St. Julien and they have been printed in the "Mémoires de la Société Royale Académique de Savoie." On April 13, 1587, the case was brought before "his most reverend lordship, the prince-bishop of Maurienne, or the reverend lord his vicar-general and

official," by the magistrates and proctors, François Amenet and Petremand Bertrand, who presented the following petition for the inhabitants of St. Julien:—"Formerly by virtue of divine services and earnest supplications the scourge and inordinate fury of the aforesaid animals did cease; now they have resumed their depredations and are doing incalculable injury. If the sins of men are the cause of this evil, it behoveth the representatives of Christ on earth to prescribe such measures as may be appropriate to appease the divine wrath. Wherefore we the afore-mentioned syndics, François Amenet and Petremand Bertrand, do appear anew (*ex integro*) and beseech the official, first to appoint another procurator and advocate for the insects in place of the deceased Pierre Falcon and Claude Morel, and secondly, to visit the grounds and observe the damage, and then to proceed with the excommunication." As a result of this request Antoine Filliol was appointed procurator for the insects and Pierre Rembaud the advocate for the insects. On May 30, both parties appeared before the official and the case was adjourned to June 6, when Mr. Rembaud answered the plaintiffs by presenting a statement showing that their action was not maintainable and that they should be nonsuited. He argued that his clients, were within their right, that they had not made themselves liable to excommunication since the lower animals were created before man and that it was the intention of the Creator to assure them suitable and sufficient means of support. After more in a similar vein, and after he said that it was absurd to invoke the authority of civil and canonical law against beasts that were subject only to natural law and their instinct, he asked that the complaint be dismissed.

The case was adjourned to June 12 and again to June 19, when Mr. Bertrand the prosecuting attorney presented a long reply of which the defendants' advocate demanded a copy for study. Another adjournment took place until June 26 and as this was a holiday, no business could be transacted until June 27, when the prosecuting attorney argued that although animals were created before man, they were intended to be subordinate to him and subject to his use. The lawyer for the insects made no reply to this, but merely said that he had not yet received the document ordered on June 19, and so the case was postponed until July 4.

Antoine Filliol at that time replied to the plaintiffs and said that his opposing counsel had not even attempted to disprove the contention that lower animals were subject only to natural law. Both parties appeared before the official of St. Jean-de-Maurienne on July 18. The procurator of the insects asked for the case to be closed and the plaintiffs debarred from introducing more irrelevant matter. The prosecuting lawyer asked for a new term which was granted. Meanwhile, because of the legal delays an attempt was made to adjust the trouble by compromise. On June 29, 1587, a public meeting was called for the purpose of considering the propriety of providing a feeding place for the insects, outside of the vineyards of St. Julien. A plot of ground was selected, the inhabitants reserving for themselves the right to pass through it and to make use of the spring water on it, also the right to work the ochre and other mineral-color mines on the plot, and to take refuge there in time of war. The assemblage voted for this and a conveyance was drawn up and properly witnessed and sealed. On July 24, the proceedings of the public meeting were submitted to the court by Mr. Bertrand, procurator for the plaintiffs, who remarked upon the generosity of the commune and prayed that the grant be accepted and the insects be ordered to vacate the vineyards and be forbidden to return on pain of excommunication. The procurator for the insects asked for a copy of the process-verbal and time for consideration. This was granted and the case was adjourned until "the first juridical day after the harvest vacation" which happened to be August 11, but again by the consent of both parties, it was postponed until August 20. At this time the movement of troops through the country interfered with the trial and it was postponed to August 27 and again to September 3, when Mr. Filliol stated that he could not accept the offer made by the plaintiffs because the plot of land was sterile and not fit for his insect clients to live upon. He moved for a dismissal of the action with costs to the complainants. Mr. Bertrand denied the correctness of Mr. Filliol's remarks and claimed that the land was admirably adapted for the insects, being full of trees and shrubs. He also insisted upon a settlement in his favor.

Thereupon the official took the briefs of both parties and reserved his decision. He then appointed experts to examine the

plot of ground and to submit a written report upon its fitness to support the insects.

After so much deliberation, it is too bad that the final decision is doubtful to us because the last page of the record was destroyed by rats or insects. Various items of expense were incurred during the trial, such as fees for clerical and legal services, and for the experts. It is of interest to note that during the trial, which was conducted with all seriousness, there was no question by either side of the right of the insects to an adequate type of support suited to their nature. Nowadays it is not believed that such a right would be recognized at all with respect to insects. In addition, during the progress of the trial, no one, apparently, had any doubts about the power of the Church, by virtue of its commands, to compel the insects to stop their ravages or to move to another place. Without such a belief in the Church, the whole trial would have lacked dignity and seriousness. In insect prosecutions the lawyers for the defense always made a strong point in declaring that the insects were sent to punish people for their sins and any attempt to destroy the agents of God would be displeasing to the Almighty. Under such circumstances, the best procedure was to repent and to pray to God to remove the instrument of punishment.

As a matter of fact, insects were not really excommunicated but more properly anathematized. Insects were not taxable members of the community, and excommunication implies the exclusion from the communion of the church and from other advantages related thereto. It is one of the results of an anathema, but it is limited to members of a religious body to which insects do not belong. Anathematization was also justified on the ground that the lower animals, including insects, being emissaries of Satan, it was right and proper for them to be cursed. Some early authorities believed that the anathema should not be pronounced against the animals as such, but inferentially against the devil who made use of such animals. However, not all animals were looked upon as bad, and in "The Book of King Mode and Queen Reason," printed in 1486, animals were divided into two groups, "sweet beasts" and "stenchy beasts." Near the end of the ninth century the country around Rome was visited by a plague of "locusts" and although millions were destroyed by the peasants,

more millions remained. Eventually Pope Stephen VI, prepared large volumes of holy water with which the whole country was sprinkled, whereupon the insects disappeared. The formula used in consecrating the water implied the diabolical character of the insects against which it was directed.

Various early accounts record the effectiveness of anathemas and bans against insects by the Church. For example, during the latter half of the fifteenth century, a plague of "locusts" threatened the province of Mantua in northern Italy. The insects were dispersed by excommunication. In 1338 "locusts" started to wreck the agricultural scenery around Botzen in the Tyrol. Proceedings were therefore started against them before the ecclesiastical court at Kaltern, ten miles south of Botzen, and the parish priest proceeded against them in a solemn ceremony of anathematization. Because of the sins of the people and their delinquency in the payment of tithes, the insects, for a time, resisted the power of the church, but finally disappeared.

There was a regular order to be followed for actions against insects, involving pleas, replications, rejoinders and decisions. On both sides the pleadings were saturated with Latin quotations, classical allusions and erudition. The pleas were patchworks of rhetoric, legal lore and literary affectation.

In 1478 a species of *Bruchus* destructive to crops was prosecuted and anathematized in Switzerland, the trial being conducted before the Bishop of Lausanne. First a parish priest delivered a long admonition from a Bernese pulpit relative to the injury done by the beetle or "inger," as it was called, and of the suffering it caused, then the mayor and common council were approached and asked to devise ways for relief. They held a conference with the Bishop of Lausanne, who issued a mandate enjoining the insect from committing further depredations. In this mandate, the bishop urged the people to pray and then he commanded the insects, of which he said there were none in Noah's ark at the time of the deluge, to depart within six days, from the fields where they were doing their damage. If for some reason they did not see fit to depart, they were supposed to appear on the sixth day after the issuance of the order, at Wiffisburg, there to justify themselves through their advocate before His Grace the Bishop of Lausanne.

There is no further record of what happened in this particular case. No doubt it was postponed on account of a technicality, as this was a common occurrence. However, a continuation of this case or a new one happened in May 1479 with the same insect. At that time the mayor and common council of Berne sent copies of the monitorium issued by the Bishop of Lausanne to their representative for distribution to the priests of the afflicted parishes so that it might be made known from their pulpits. About a week later, on May 15, the same authorities asked the Bishop of Lausanne for new instructions and urged immediate action. Apparently the insects were doing more damage and an anathema was needed at once.

After the appointed time had expired, with the insects ignoring everyone and everything, the mayor and common council of Berne issued a document giving Mr. Thüring Fricker the power of attorney to prosecute the case. This was on May 22, 1479. The trial began a few days later and ended on May 29. In this particular case, the usual legal delays, were somehow avoided. The sentence of the court which banned and exorcised the insects, was received with great joy by the people, but nothing came of it because of the sins of the people, and God permitted the "inger" to remain as a punishment until the people repented of their wickedness and gave evidence of their love to him by giving, to the Church, tithes of what the "inger" had not destroyed.

In the malediction issued by the priest, the "inger" was characterized as a species not in Noah's ark, so that there would be no inpropriety in having the Church of God curse it. It would not have been proper to curse creatures that God had made and pronounced good and which he had taken pains to preserve from destruction by the deluge.

On June 26, 1659, Capt. J. B. Pestalozzi, appeared before commissioner Hartmann Plańta, on behalf of the communes of Chiavenna, Mese, Gordona, Prada, and Samolico, and made a complaint about certain caterpillars, demanding that they should be summoned to appear in court in order to have a curator and defender appointed for them, to answer to the plaintiffs. This was done, a summons was issued, copies were posted in the forests and the advocate of the insects was ordered to appear in court on

behalf of his clients which were charged with trespassing upon fields, gardens and orchards where they did great damage, instead of remaining in the forests where they belonged. A trial was held and a definite place of abode was to be assigned to them. Here the record ends. The court recognized the right of the caterpillars to life, liberty and the pursuit of happiness, provided the exercise of such a right did not infringe upon the happiness of man "to whom the lower animals are subject." Other extant records involving such ecclesiastical acts as have been noted, refer to termites, gadflies, and other insects. Peasant communities were always willing to ward off insect devastations at the expense of their neighbors. In some cases the insects were notified verbally that better entertainment was to be had at another village.

In closing, a weak survival of ecclesiastical excommunication, that existed in these United States in 1888, may be noted. Mr. W. W. Newell in "The Journal of American Folk-Lore" (Jan.-Mar., 1892), records a letter that was written to rats in order to induce them to quit certain premises. This letter was rubbed with grease and stuffed into the runs of the rats so that it would not be overlooked. This particular letter was dated, "Maine, Oct. 31, 1888" and addressed to "Messrs. Rats and Co." The author began by expressing deep interest in the welfare of the rats, as well as concern lest they find their winter quarters in No. 1, Seaview Street, uncomfortable and with little food, since it was only a summer residence. He suggested that they move to No. 6 Incubator Street where they would be much happier. Here they could live in a cellar well stocked with vegetables and they would also have easy access to a barn containing grain. The writer concluded by advising the rats that no harm would come to them if they took his advice. But if they didn't he would use "Rough on Rats" against them.